<u>REMARKS/ARGUMENTS</u>

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

After entry of the foregoing amendment, Claims 195-201 and 203 are pending in the present application. Claim 202 is canceled without prejudice or disclaimer. Claim 195 is amended to incorporate the canceled subject matter. No new matter is added.

By way of summary, the Official Action presents the following issues: Claim 195 is objected to as to matters of form. Claims 195 and 202-203 stand rejected under 35 U.S.C. §101; and Claims 195-203 stand rejected under 35 U.S.C. §103 as being unpatentable over <u>Rangan et al.</u> (U.S. Patent 6,006,265, hereinafter <u>Rangan</u>) in view of <u>Marsh et al.</u> (U.S. Patent 6,876,974, hereinafter <u>Marsh</u>).

<u>OBJECTIONS TO THE CLAIMS</u>

In response to the objection to Claim 195 as outlined at paragraph 2 of the Official Action, Applicant has amended Claim 195 to provide the punctuation suggested.

Accordingly, Applicant respectfully requests that the objection to Claim 195 be withdrawn.

<u>REJECTIONS UNDER 35 U.S.C. §101</u>

The Official Action has rejected Claim 195 ad 202-203 under 35 U.S.C. §101 as allegedly reciting nonstatutory subject matter. Applicant respectfully traverses the rejection.

At paragraph 4 of the Official Action it is noted that:

> Claims 195 and 202-203 are directed towards a system that comprises only software sections. Because these claims are directed towards software per se they do not fall into a statutory category of invention.

Applicant notes that Claims 195 and 202-203 are directed toward a data-providing system. Applicant notes that none of the elements of these claims are explicitly limited to software components. Moreover, the inclusion of software components as an element of a statutory system is permissible. In this regard, the interim guidelines for examination of patent applications for patent subject matter eligibility notes:

> Computer programs are often recited as part of a claim. USPTO personnel should determine whether the computer program is being claimed **as part of an otherwise statutory manufacture or machine**. In such a case, the claim **remains statutory irrespective of the fact that a computer program is included in the claim.**[1]

Applicant submits that the current claims are directed toward a system which may include, in some embodiments, software elements, however, this does not render the claims nonstatutory under 35 U.S.C. §101. Accordingly, Applicant respectfully requests that the rejection of Claims 195 and 202-203 under 35 U.S.C. §101 be withdrawn.

REJECTIONS UNDER 35 U.S.C. §103

The Official Action has rejected Claims 195-203 under 35 U.S.C. §103 as being unpatentable over <u>Rangan</u> in further view of <u>Marsh</u>. The Official Action contends that <u>Rangan</u> describes all of the Applicant's claimed features with the exception of attributes including a conflict attribute identifying associated content data which is precluded from assembly with predetermined other content data for providing new content data. However, the Official Action cites <u>Marsh</u> as describing this more detailed aspect of the Applicant's claimed advancement, and states that it would have been obvious, to one of ordinary skill in the art that the advancement was made, to combine the cited references for arriving at the Applicant's claims. Applicant respectfully traverses the rejection.

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[1] *See* <u>Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility, USPTO 2005</u> (Annex IV, Computer Related Non-Statutory Subject Matter) page 53

Applicant's amended Claim 195, recites, *inter alia*, a data providing system, including:

> a first data-transmitting section configured to transmit a continuous stream of content data including multimedia content groups, each including program data and auxiliary data items;
>
> an edit control section configured to perform an editing operation on attributes of each program data and auxiliary data items, thereby automatically assembling new content data, the attributes including a conflict attribute identifying associated content data which is precluded from assembly with predetermined other content data for providing new content data; and
>
> ...
>
> wherein the auxiliary data items include, <u>at least, a validity term and conditions relative to the assignment of rights for editing attributes of each auxiliary data item</u>. (emphasis added)

Rangan describes a digital video communication system including a VOW server (1). As shown in Figure 1, live content (2) is delivered to a digital network (4) by Internet service providers (5). The content (2) is provided to SUVs (7). The VOW server (1) inserts hyperlink data to the content (2) for delivery to the SUVs (7).[2] As shown in Figure 9, when an SUV actuates a hyperlink of the content (2) the VOW server may employ a security protocol for blocking content from a user, for example, to restrict a child's access to adult material.[3]

Marsh describes an advertisement display scheduler resident on a user's computer. The scheduler (700) monitors the client's system (101) for scheduling the presentation of advertisements. In determining such presentation, the scheduler (700), may eliminate conflicting advertisements or delay their presentation based upon the presentation of computing advertisements.[4]

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[2] See Rangan at column 24, lines 31-60.
[3] See column 28, lines 33-50 of Rangan.
[4] See Marsh at column 9, line 66 through column 10, line 21.

Conversely, in an exemplary embodiment of the Applicant's claimed advancements, a data providing system is provided including a first data transmitting section. The first data transmitting section is configured to transmit a continuous stream of content data including multimedia content groups. Each of the multimedia content groups includes program data and auxiliary data items. An edit control section is provided to perform an editing operation on attributes of each program data and auxiliary data items. The editing operation automatically assembles new content data. The attributes include a conflict attribute identifying associated content data which is precluded from assembly with predetermined other content data for providing new content data. A second data transmitting section is configured to select auxiliary data items to be inserted into the program data in accordance with the new content data assembled by the edit control section. In this way, the second data transmitting section transmits a continuous stream of adapted content that includes multimedia content groups each including the program data and the auxiliary data items. The auxiliary data items include, at least, a validity term and conditions relative to the assignment of rights for editing attributes of each auxiliary data item.

In this regard, Applicant has incorporated the features of Claim 202 into independent Claim 195, Applicant notes that the features of Claim 202 have been identified as corresponding to column 28, lines 33-50 of Rangan. However, as discussed above, this section of Rangan describes a security procedure by which users clicking a hyperlink are precluded from accessing the underlying content. Rangan does not disclose or suggest providing auxiliary data items **including** a validity term and conditions relative to **assignment of rights for editing attributes of each auxiliary data item**. To the extent that the security protocol of Rangan is being broadly considered as equivalent to these features, Applicant notes that the security protocol relies upon a specific channel, stream ID and user

for determining whether or not the underlying content will be accessed.[5] As the Official

Action has identified the hyperlinks of <u>Rangan</u> as corresponding to the claimed "auxiliary

data items" Applicant notes that the hyperlink or "auxiliary data item" does not **include** the

security procedures described in <u>Rangan</u>, instead, these procedures are implemented by a

server based upon identification data transmitted to the server which corresponds to a specific

user. As such, the hyperlink of <u>Rangan</u> cannot be considered equivalent to the claimed

auxiliary data item which includes at least, a validity term and conditions relative to the

assignment of rights for editing attributes of each auxiliary data item. This is because, the

hyperlink of <u>Rangan</u> includes no such data.

<u>Marsh</u> does not remedy the deficiencies discussed above, nor is it asserted for

describing such features in the Official Action. Accordingly, Applicant respectfully requests

that the rejection of Claims 195-203 under 35 U.S.C. §103 be withdrawn.

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[5] See <u>Rangan</u> at Fig. 9.

CONCLUSION

Consequently, in view of the foregoing amendment and remarks, it is respectfully submitted that the present application, including Claims 195-201 and 203, is patentably distinguished over the prior art, statutory, and such action is respectfully requested at an early date.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Bradley D. Lytle
Attorney of Record
Registration No. 40,073

Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 03/06)
SAM/rac

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Scott A. McKeown
Registration No. 42,866